

Module 4: Overview of IDEA'97

Instructional Design Specifications

Program: EDJJ Professional Development Series

Competency: Upon completion of Module 4, participants will be able to describe the major provisions of the Individuals with Disabilities Education Act (IDEA). Participants will be aware of issues related to providing these services within a correctional setting.

Rationale: For many correctional institutions serving youth, there is an overrepresentation of juveniles with disabilities (i.e., learning disability, emotional/behavioral disorder). Over 30% of youth in correctional education programs has a disability, compared to about 10% in public schools (Leone, 1997; Robinson & Rapport, 1999). Providing appropriate services for these youth in correctional settings requires that correctional staff understand the legal mandates that govern the provision of services for all youth with disabilities. In addition, correctional staff should be aware of issues that make provision of services problematic in correctional settings.

Prerequisites: This module is an overview that does not require any specific prerequisite knowledge.

Introduction

This module is one in a series of training packages that have been designed for working with students with disabilities in a correctional setting; it focuses on providing an overview of the Individuals with Disabilities Education Act (IDEA).

Objectives

The following module is organized to provide a general outline of information related to transition services for youth with disabilities in the juvenile justice system. While the module should provide sufficient information for the instructor, additional reading or supplemental material may be provided. Material may be presented in a variety of ways including lecture and discussion. Classroom instruction should be supplemented with real-life anecdotes and elaboration by the instructor and participants. Following each section, it is suggested that the mode of instruction be adjusted to maintain participant interest. For example, following a lecture on the components of an effective transition plan, participants may work together to develop a transition plan.

Additionally, no time frames are provided to the instructor. This module will serve a variety of purposes for the instructor. While participants would develop a more comprehensive understanding of instructional methods and strategies through exposure to the entire module, it is understandable that time constraints may limit this possibility. The instructor may wish to separate the module into various timed sessions depending on activities, assignments, and personal experiences planned, completed, or discussed. Upon completion of content instruction, participants will be able to accomplish the following objectives.

- 1.0 Identify major terms and provisions of IDEA.
 - 1.1 Identify the name and purpose of the law.
 - 1.2 Describe how to obtain a copy of the congressional act and related regulations.
 - 1.3 Describe the major provisions of IDEA.

- 1.4 List the major components of an *appropriate education* under the law.
- 1.5 Define the term *special education*.
- 1.6 Define the term *related services* and name examples.
- 1.7 List and discuss the major due process procedures provided under IDEA.
- 2.0 Assist in determining the eligibility of a student for special education services.
 - 2.1 Be aware of the categories of eligibility under which a student may qualify for special education services.
 - 2.2 Name the most common disabilities found among incarcerated youth.
 - 2.3 Describe how students are identified or referred for special education.
 - 2.4 Discuss the assessment requirements that assure nonbiased special education evaluations.
 - 2.5 Describe how eligibility decisions are made.
- 3.0 Assist in developing Individualized Education Programs.
 - 3.1 Discuss the purpose of an individualized education program (IEP).
 - 3.2 List the persons responsible for the development of an IEP.
 - 3.3 Describe the components of an IEP.
- 4.0 Assist in making placement decisions.
 - 4.1 Describe criteria used in making placement decisions.
 - 4.2 Describe the continuum of services.
- 5.0 Identify issues in providing special education services in correctional facilities.
 - 5.1 Describe the major issues that make provision of services difficult.
 - 5.2 Name approaches for overcoming the difficulty of providing special education services in correctional facilities.

Participant Activities/Assessments

The following activities are provided in order for participants to exhibit their knowledge. An equally important goal is for participants to have experience applying the information within a situation that is guided by the instructor and supported by fellow participants. Naturally, the instructor is encouraged to modify the activities to meet the needs of the group and the time allotted. It is suggested, however, that participants be made fully aware of all expectations at the onset of the training program.

Activity I: Comprehension Checks and Discussion Questions

These questions are designed to assist the instructor in evaluating the degree to which participants understand the material. They can be used throughout the presentation as indicated. Also include the handout: Parent and Family Involvement in Special Education Program found in the handout section of this module.

After Section 1.0

1. Why was IDEA needed to insure the rights of persons with disabilities?
2. Where can you obtain a copy of IDEA and associated regulations?
3. What does the acronym *FAPE* mean?
4. In what ways does *special education* differ from general educational services?
5. Why are related services required by IDEA?
6. Name some types of related services.
7. What are some controversial issues surrounding the provision of related services?
8. What are *due process* procedures?

9. What due process procedures are required immediately after screening or initial referral?
10. What due process procedures are required at the time of placement?
11. What is a surrogate parent?

After Section 2.0

1. Name some of the categories of disability defined by IDEA.
2. What are the most common disabilities found among incarcerated youth?
3. How are students usually identified and referred for special education services?
4. How does IDEA ensure fair and unbiased evaluations?
5. What are some of the areas in which a student should be evaluated?
6. What two criteria are used to make eligibility decisions?
7. Who makes the eligibility decision?

After Section 3.0

1. What is the purpose of an IEP?
2. How long after the eligibility decision is made must the IEP team meet to develop an educational program?
3. Name the individuals who should be part of the IEP team.
4. Name the components of an IEP.

After Section 4.0

1. What should the IEP team consider when making a placement decision?
2. What is the *continuum of services*?

After Section 5.0

1. What special problems are caused by the fact that adjudicated youth can move through a series of settings within the juvenile justice system?
2. Why is the exchange of records between school and facilities a problem?
3. How can safety and security issues affect the placement and education of youth with disabilities in correctional facilities?
4. How do issues related to administration of services create problems in the education of adjudicated youth?
5. What makes parental involvement problematic in planning special education services for youth in correctional facilities?
6. When may a correctional facility consider appointing a surrogate parent?
7. What are the general guidelines for selecting a surrogate parent?
8. What are some basic recommendations for facilitating the implementation of IDEA in correctional institutions?

Activity 2: Determining Eligibility

Materials: A typical set of evaluation results for your setting with all identifying marks removed.

Section 2.5 describes the process for determining eligibility for special education services. Obtain completed evaluation information for a student with a learning disability or emotional disturbance. Be sure to remove any identifying information. Divide participants into groups of four or five and provide each group with the complete set of evaluation materials. Describe the basic content of the materials. Ask each group to determine whether, based on the evaluation information, they would consider the student to be eligible for special education services. Compare the decisions of the groups. While the content outline does not provide enough information for informed decisions regarding the eligibility of students with learning disabilities or emotional disturbance, the goal of this activity is to familiarize participants with evaluation materials and the breadth of information to be considered.

Activity 3: IEP Teams

Section 3.2 describes the individuals that are required to be present at an IEP meeting. At the conclusion of the description of the team, ask each participant to think of a student with special education needs within their facility. Have the participants make a list of persons within their facility likely to be on the child's IEP team. Have the participants share their lists with the group. Ask whether any participants were unable to think of appropriate persons within their facilities to fill the roles of a complete IEP team.

Brainstorm ways in which parents who can not be physically present for meetings can still be involved in decision making.

Activity 4: IEP Components

Materials: a copy of a blank IEP form for each participant.

Section 3.3 provides a description of the components of an IEP. Acquire a copy of a blank IEP form and provide one copy for each participant. As you describe each section of the IEP, direct participants to the appropriate section of the form. If you choose to use a completed IEP, make sure you remove any identifying information.

Activity 5: Checklists for Short- and Long-Term Facilities

Section 5.2 offers the suggestion that the mandates of IDEA should be integrated with the policies and administrative procedures of correctional facilities. From the Handout section of this document, provide participants with copies of the Checklist for Short-Term Facilities and Checklist for Long-Term Facilities. Review the process on each handout with participants.

Handout 1

Parent and Family Involvement in Special Education Programming

This section focuses on the role of parents or parent surrogates in the special education process. The following is a list of recommendations for trainers related to the delivery of information about parents of youth with disabilities in the juvenile and adult corrections system.

- A. Parental involvement in special education planning is especially important when a child is incarcerated and has access to fewer advocates.
- B. Anecdotal evidence shows, however, that parent attendance and involvement in special education planning for their child is often problematic when the youth is incarcerated.
- C. In some instances, students with disabilities whose parents either cannot or will not be involved in the IEP process should be assigned a surrogate parent to advocate for the student's rights and interests.

Barriers to Parent Involvement: Prior School Experiences

Significant barriers often exist for parent involvement in IEP planning meetings in correctional setting.

- The first barrier is often their prior negative experiences with the IEP process when their child attended public school.
- Parents may not have been involved in the special education process in the past.
- Parents are often unaware that their participation is essential and potentially influential.

- Parents often are unaware that their child’s behavioral difficulties and learning needs are related to the presence of a disability.
- Parents’ suggestions for working with their child often are not respected. They may be accused of *enabling* their child’s problems and disabilities rather than supported for being good advocates.
- Parents are often ignored or blamed for their child’s misbehavior by persons in authority and, as a result, are wary of individuals in social services, health services, education, or the juvenile justice system (Garfinkle, 2000).
- Parents acknowledge that there may have been repercussions for their children when they were vocal in their response to school issues.

Barriers to Parent Involvement: Personal Issues

- In some cases, parents don’t participate because they may have a negative relationship with their child as a result of years of stress, frustration, and lack of knowledge about how to interact with a child with problematic behaviors.
- Parents may be overwhelmed by their own life challenges including poverty, their own mental health, and lack of community or family supports.
- Parents may not be informed in a timely way about IEP meetings and may be unable to attend meetings because of job responsibilities or the lack of childcare.
- Parents may be unable to access childcare so that they can leave their home and attend a meeting.

Barriers to Parent Involvement in the Correctional Setting

- Parents may be intimidated by the corrections setting and fearful that by advocating there will be repercussions for their child.
- Parents may not have access to transportation to the incarceration site, especially when the child is placed in a setting far from home.
- Parents believe that there is no center of control in the corrections setting; they do not know who is in charge and to whom complaints should be addressed.

Strategies for Parent Involvement in the Correctional Setting

It is recommended that:

- IEP meetings take place in an easily accessible location, planned around visiting day, or conducted via conference call with parents.

- Transportation and childcare be available for parents who attend IEP meetings.
- The setting is conducive to interaction between team members and parents (e.g., seating at round tables).
- IEP meetings are conducted in family-friendly language that parents can understand.
- Parents should be encouraged to express their opinions without fear of retribution for their incarcerated child.
- Parents should be encouraged to ask questions if they don't understand something.
- Resources in the community, such as parent training centers and disability advocacy groups, should be identified for parent support (Rutherford, Quinn, Leone, Garfinkle, & Nelson, 2002).
- All written information in the IEP is presented in clear, straightforward language and is arranged according to topics (i.e., discipline, assessment, etc.).

Parent Involvement under IDEA

The provisions of the Individuals with Disabilities Education Act (IDEA) are applicable in all state and local juvenile and adult criminal corrections facilities. The only exception for entitlement to special education services are for those youth ages 18 through 21, who in their last educational placement prior to incarceration in an adult criminal correctional facility, had not been identified previously as a child with a disability and did not have an IEP (Burrell & Warboys, 2000).

Parent and parent surrogate roles are clearly defined under IDEA. *Parent* is legally defined as the biological or adoptive parent; a guardian (excluding the state, if the child is a ward of the state); a person acting instead of the parent, including a grandparent or stepparent with whom a child resides; or a surrogate parent. *A surrogate parent* is someone assigned by the state to act as the child's parent for purposes of special

education services, in cases where the parent cannot be located or the child is a ward of the state. A state or school employee may not act as the child's surrogate parent. If the child is living with someone other than a parent, a determination needs to be made of whether that person has legal custody of the child. If the person does not have legal custody, then it must be determined whether the child's parent has given her/him written authority to make decisions on educational issues. A parent has the right to accept or decline special education services for their child if legal custody of the child has not been transferred to the state. Informed parental consent is necessary before a school conducts an initial evaluation, before a school provides special education and related services for the first time, and before a school conducts a reevaluation of a child. In cases where a parent refuses to agree to an evaluation or reevaluation and the school wants to continue irrespective of their feelings, the school can choose to seek mediation or a due process hearing as a means of resolving the issue.

Due Process

Parents are entitled to a due process hearing before an impartial hearing officer if they wish to challenge the identification, evaluation, or educational placement of their child. In a hearing, parents have the right to counsel and/or persons knowledgeable about their child's disability. They have the right to present information and to cross-examine, confront, and compel the attendance of witnesses and to prohibit the introduction of any evidence that has not been disclosed at least 5 working days before a hearing. Parents have the right to a written or electronic record of the proceedings, and written or electronic information about the decision within 45 days after the school receives the hearing request.

IDEA in Juvenile Facilities

Long-term juvenile facilities have the obligation to identify youth with disabilities who have not been identified previously as eligible for special education. Because the evaluation process calls for parental consent, parents can initiate this process. This mandate also applies to short-term facilities. The facility education staff must ensure that requests for reevaluation by parents and teachers are honored.

Interim Services

When a youth with an IEP is referred to a facility, this facility must implement the existing IEP or hold a new IEP meeting in accordance with federal law. This includes notifying the parent and including the parent at the new IEP meeting (U.S. Department of Education, 2000).

Parent Involvement

- Staff must include parents in the IEP process as defined under IDEA. With the exception of rulings made by the court to limit their rights, parents of youth in correctional settings have the same rights as parents of youth who are students in public schools including the right to due process and mediation.
- Due process protections are separate from any internal institutional grievance procedure. As such, officials may not require students or parents to fulfill steps not required by IDEA in order to challenge school officials' decisions.
- Facilities staff should inform youth and their parents or surrogate parents of their rights under IDEA.
- Parents have the right to examine records, receive written notice of proposed actions (or refusal to take actions), and participate in meetings involving the identification, evaluation, and educational placement of their child as well as the provision of FAPE.
- Parents have the right to ask for a reevaluation of their child if that child is in state custody.

- In theory, parents may have the right to challenge a child's exclusion from a correctional education setting because of disciplinary issues related to their disability under the Americans with Disabilities Act.
- Distance from an institution should not interfere with parent involvement in an IEP. The facility has an obligation to keep parents involved, whether through teleconferencing, FAXs, or any other means of communication.
- Similarly, surrogate parents can be appointed as part of the due process protection and have all the same rights regarding education as parents. Surrogate parents may be independent and may not be appointed from within the corrections system.

Special Education in Lockdown

When youth are removed to a more restrictive setting because of behavioral issues, the provisions of the IEP remain consistent in a juvenile facility. This transfer may constitute a change of placement which requires the parent's involvement. Students and parents have the right to challenge placements and modifications in their IEP.

Transition

Transition planning for youth with disabilities is often the weak link in special education services for incarcerated youth. While a majority of youth in the delinquency system fall within the age range where transition services are mandated, under IDEA, transition planning should begin at age 14 with full services beginning optimally at 16 or earlier where appropriate. Transition planning requires the same level of parent involvement as does the IEP. For youth with disabilities who are incarcerated, transition planning has great significance because their successful return to the community is predicated on developing a highly structured transition plan that includes educational planning, vocational counseling, mental health and services, job placement skills, independent living skills, strategies for success in the community, and cognitive and social skills.

Transition planning is critical in developing a reintegration plan that can prepare the youth for increasing responsibility in the community.

Transfer of Parental Rights

At least one year before the student reaches the age of majority (as established in each state), the school must notify the student and his/her parents that parental rights and procedural safeguards provided under IDEA will transfer to the youth at the age of majority. In cases where a guardian or conservator makes decisions for a youth, then the transfer of rights does not occur. If a guardian or conservator has not been appointed and a school district considers the student unable to make informed educational decisions, then the parents or another individual can be appointed to represent the students educational interests.

Handout 2

Checklist for Short-Term Facilities (from Robinson & Rapport, 1999)

1. Contact the student's prior school district to obtain educational records (e.g., IEP).
2. Implement the IEP from the student's prior school district with necessary modifications.
3. Conduct screening during initial arrival at the correctional facility in the absence of an IEP.
4. Because parental notification and approval are required according to IDEA, officials should make every effort to contact and involve parents of youth with a suspected disability.
5. For youth with a suspected disability, conduct a thorough evaluation according to IDEA regulations.
6. In the absence of an IEP, hold an IEP meeting for youth who qualify for special education services.
7. Design an IEP that meets the needs of the student within the safety and judicial constraints of the facility.
8. Facilitate transition back to the public school system or into a long-term institution.

Handout 3

Checklist for Long-Term Facilities (from Robinson & Rapport, 1999)

1. Collaborate with the short-term facility to enable youth to make a smooth educational transition.
2. Conduct screening during initial arrival at the correctional facility if the short-term facility reports no previous screening.
3. If no previous screening was completed at the short-term facility, conduct a thorough evaluation of students with suspected disabilities according to IDEA regulations.
4. Because parental notification and approval are required according to IDEA, officials should make every effort to contact and involve parents of youth with a suspected disability.
5. If the student qualifies for special education services, hold an IEP meeting.
6. Design an IEP that meets the needs of the student within the safety and judicial constraints of the facility
7. Upon release, facilitate transition back to the public school system through continued collaborative efforts with the receiving school district.

T-A

Problems and Purpose

Problems

- Many children excluded from services
- Children receiving inadequate instruction
- Lack of rights for parents and guardians
- States and districts lacked sufficient funds

Purpose

- Insures the provision of a free, appropriate public education
- Protects the rights of parents, guardians, and children
- Assists states and districts with funding
- Monitor and insure state efforts

Amendments to IDEA

- 1983
 - Extended services down to the age of 3
- 1986
 - Added services for infants and toddlers
- 1990
 - Education for All Handicapped Children Act renamed Individuals with Disabilities Education Act
- 1997
 - Clarified effect of disciplinary procedures, assessment, intervention planning, and increases parental involvement.

Obtaining a Copy of IDEA

- From the Web
 - Office of Special Education and Rehabilitation
 - http://www.ed.gov/offices/OSERS/IDEA/the_law.html
- By Mail
 - EDPUBS (<http://www.ed.gov/pubs/edpubs.html>)
 - 1-877-4-ED-PUBS.
 - Government Printing Office
Superintendent of Documents
PO Box 37195-7954
Pittsburgh, PA 15250
202-512-1800

Major Provisions of IDEA

- Due Process
- Least Restrictive Environment
- Nondiscriminatory Assessment
- Individualization
- Confidentiality
- Parent Surrogate
- Age Levels
- Private Settings
- Finances
- Planning

T-4

FAPE =

Free Appropriate Public Education

- **Free:** provided for all eligible persons at public expense without charge to the parent.
- **Appropriate:** provided in accordance with the criteria set forth by the law.
- **Public:** IDEA covers individuals who are served in public and private educational settings
- **Education:** meant to benefit and support the education of the eligible individual.

What is Special Education?

- Instruction designed to respond to the unique characteristics of children who have needs that cannot be met by the standard school curriculum.

T-4B

Special Education

may consist of changes in:

- Content
- Instructional Methods
- Instructional Materials
- Expected Rate of Progress
- Individualized Education Programs (IEPs)

T-6

Related Services: Examples

- Developmentally Related Services
- Corrective Services
- Supportive Services

Related Services: Issues

Issue

- Financial Obligations
- Amount of Service
- Medical vs. Related Services

Solution

- Interagency Agreements
- Educational Benefit
- Diagnostic vs. Ongoing Services

Due Process Procedures

- Parental Informed Consent
 - At initiation of referral
 - At initial evaluation
 - At placement
 - Right to review records
 - Right to an independent evaluation
 - Right to initiate hearing
- Surrogate Parent

Eligibility

To be considered eligible for special education services, a student must

- Be found to have one or more of the disabilities defined in IDEA.
- Require special education or related services.

Eligibility: Categories

- Autism
- Deafness
- Deaf-blind
- Hearing Impairment
- Mental Retardation
- Multiple Disabilities
- Orthopedic Impairment
- Visual Impairment
- Other Health Impairment
- Emotional Disturbance
- Specific Learning Disability
- Speech or Language Impairment
- Traumatic Brain Injury

T-10

Most Common Disabilities Among Incarcerated Youth

- Emotional Disturbance
- Specific Learning Disability
- Mental Retardation

How are youth identified?

- Systematic screening
- Referral by a teacher or other person
- Self-referral by student
- Parental request
- Intake screening

Fair and Unbiased Evaluation

- Administer tests in student's native language
- Use multiple assessment instruments
- Use assessments that are valid
- Insure that the assessment is planned and reviewed by a multidisciplinary team
- Assess in all areas related to the suspected disability.

Evaluations should include

- Health
- Vision
- Social and emotional status
- General intelligence
- Academic performance
- Communicative status
- Motor abilities

Determining Eligibility

The multi-disciplinary team should

- Use the collected evaluation data to determine whether the student meets one or more of the definitions of disability.
- Use the collected evaluation data to determine whether the student requires special education and related services.

Individualized Education Programs

- The IEP describes the educational program that has been designed to meet the child's unique needs.
- The meeting to develop the IEP must be held within 30 calendar days of deciding that the child is eligible.

Individualized Education Programs: The IEP Team

- Parents
- Teachers
- Someone who can interpret the test results
- Someone representing the school system
- School system expert
- Parent advocate
- Transition specialist
- The student!!!

Individualized Education Programs: The Components

- Present levels of educational performance
- Annual goals
- Special education and related services
- Participation with children without disabilities
- Participation in statewide and district testing
- Dates and places
- Transition services
- Age of majority
- Measuring progress
- Additional information

The Placement Decision

- Based on the educational goals in the IEP
- Placement should be determined **AFTER** development of the IEP
- **DO NOT** automatically assign the student to a setting for students with the same disability
- Select the least restrictive environment

T-19

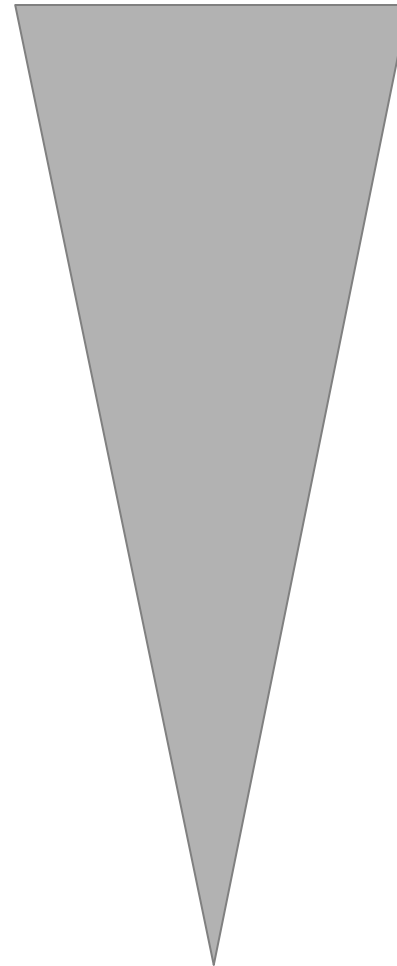
The Least Restrictive Environment (LRE)

Students with disabilities
should be educated with their
peers without disabilities to the
maximum extent possible (IDEA, 34

C.F.R. § 300.550(b)(2)).

The Placement Decision: Continuum of Services

- Regular class
- Regular class + consultation
- Regular class + itinerant
- Regular class + resource
- Special class + regular class
- Special class
- Special day school
- Residential
- Homebound
- Hospital or institution



Least
Restrictive

Most
Restrictive

Implementing IDEA in Correctional Settings: Issues

- Mobility
- Records Exchange
- Safety and Security
- Administration of Services
- Parental Involvement

Implementing IDEA in Correctional Settings: Issues

- Surrogate Parent
 - When the parent is unwilling or unable to participate and
 - (a) The student is not considered an adult.
 - OR
 - (b) The student is over 18 but cannot protect their own interests.

Implementing IDEA in Correctional Settings: Recommendations

- Educate a variety of staff.
- Include IDEA mandates in facility policy and administrative procedures.
 - Robinson and Rapport Checklists (Handouts 2 & 3)
- Make screening a part of intake procedures.
- Seek collaborative agreements with various state and district agencies.

